

Portland Police Association



Officer Daryl Turner, PRESIDENT
Sergeant Tom Perkins, SECRETARY TREASURER

VIA EMAIL

February 4, 2019

Chief Danielle Outlaw
Portland Police Bureau
1111 S.W. 2nd Avenue
Portland, OR 97204

RE: January 2019 OIR Report Regarding PPB OIS's

Chief Outlaw:

I am writing with regard to OIR's January 2019 review of officer involved shootings involving the PPA's members. As with its prior reports, OIR's latest report fails in a most basic regard. Thirty years ago, the Supreme Court of the United States instructed that, "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham v. Connor*, 490 U.S. 386, 396 (1989). It appears that OIR has forgotten or ignored this basic principle, as its review of our officers' conduct and decision-making in tense, uncertain, and rapidly evolving events is riddled with 20/20 hindsight criticisms of officers who were forced to make split-second decisions to protect life and limb. If OIR's reports are to have any credibility in the eyes of our officers, OIR must at the very least apply the correct standard of review.

Two other problematic themes permeate OIR's report. Apparently, our officers can only do wrong in OIR's eyes. For example, OIR criticizes our officers for stumbling or falling as they attempted to create distance per PPB training by backing away from subjects advancing upon them with deadly weapons. When officers attempt to defend themselves from someone attacking them with a knife, it's ridiculous to criticize an officer for stepping back, stumbling, or falling down instead of sidestepping. This isn't a dance competition; these are intense life-or-death encounters with dangerous, armed subjects.

Similarly, OIR appears to criticize officers for reasonably believing that a suspect intended to harm the officers or others with what later turned out to be realistic-looking replica firearms. To be clear, none of those officers had any reason to believe that the weapons wielded in those encounters were fake. Indeed, the weapons themselves and the suspects' use of those weapons would lead any reasonable person to believe that the weapons were in fact real. Take a look at these weapons used in two of the OIS's reviewed by OIR:

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On the web at www.ppavigil.org



If a suspect pointed either of these weapons at you, would you have any reason to believe that the weapon was actually fake? These aren't toys. Certainly, the civilian who had the gun on the left pointed at his head didn't think it was fake.


If that wasn't enough, OIR goes so far as to criticize our officers for defending their lives and the lives of others by using deadly force *after a suspect started shooting at them*. I have little hope that OIR will ever be unbiased if an officer is criticized for using deadly force after being shot at.

In addition, OIR seems to take issue with the fact that none of the involved officers were disciplined in the OIS's it reviewed. Why that is a relevant touchstone in this context is completely unclear. Each of the OIS incidents were thoroughly reviewed by criminal investigators; the District Attorney's Office; internal affairs investigators; PPB command staff; a Police Review Board comprised of PPB officials, community members, and IPR officials; the Training Division; and the Chief's Office. The correct touchstone of an OIS review is whether the officer complied with the law and policy, not whether PPB punished the officer. And in each and every one of those cases OIR reviewed, the involved officers were found to have complied with the law and policy.

Our officers are highly trained, professional, and thoughtful; they consistently perform admirably in very dangerous situations. OIR's reports should at least attempt to provide an objective review of their actions and PPB's policies and practices. Instead, OIR's bias and unfair criticisms are obvious.

Finally, some of OIR's recommendations—all of which you have already approved—are subject to collective bargaining. Under our State collective bargaining law and our collective bargaining agreement, PPB cannot "agree" to a recommendation, such as videotaping officer interviews, when the decision to implement that recommendation is itself negotiable. Such a move signals a preordained outcome, which is a *per se* unfair labor practice under Oregon law.

Sincerely,


Daryl Turner
President

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Copy: Portland City Council
PPA Executive Board
Mark Amberg, City of Portland Attorney
Jerrell Gaddis, City of Portland Labor Relations Manager
Deputy Chief Bob Day